

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEITH ANDERSON,)	
)	
Plaintiff,)	Civil Action No. 10-937
)	Chief Judge Gary L. Lancaster
v.)	Magistrate Judge Cynthia Reed Eddy
)	
LOUIS FOLINO, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM OPINION

Plaintiff filed a Second Amended Complaint in this action on March 14, 2012. On March 19, 2012, this Court ordered Defendants to provide Plaintiff with discovery and further ordered that dispositive motions and briefs in support thereof must be filed by June 29, 2012. On March 27, 2012, Defendant Gibbs filed a Motion to Dismiss (ECF No. 73) along with a Brief in support thereof (ECF No. 74) claiming that the second amended complaint should be dismissed for failure to state a claim upon which relief may be granted. On April 3, 2012, the DOC Defendants filed a Motion to Dismiss (ECF No. 76) along with a Brief in support thereof (ECF No. 77) claiming that the second amended complaint should be dismissed for failure to state a claim upon which relief may be granted. On May 3, 2012, this Court dismissed the pending motions to dismiss without prejudice to Defendants filing motions for summary judgment within the deadlines set forth in this Court's Case Management Order.

On May 29, 2012, Defendant Michelle Howard-Diggs filed an Answer and Affirmative Defenses to Plaintiff's Second Amended Complaint (ECF No. 82). On June 1, 2012, the DOC Defendants filed an Answer to Plaintiff's Second Amended Complaint (ECF No. 83). On June 8, 2012, Plaintiff filed requests for default judgment against all defendants based on their failure

to have filed their answers within fourteen days after receiving notice that the Court dismissed the pending motions to dismiss.

This Court has discretion to allow Defendants to file their answers outside the time limits set forth in the Federal Rules of Civil Procedure.

A plaintiff does not suffer cognizable prejudice simply because he is forced to litigate issues raised in a late answer. Because we disfavor default judgments, doubts as to whether a defendant should be permitted to file an untimely answer should be resolved in favor of allowing a determination on the merits.

Kimberg v. University of Scranton, 411 Fed. App'x 473, 479 (3d Cir. 2010) (internal citations omitted). Plaintiff has failed to show that he suffered any prejudice as a result of Defendants' failure to file their answers within fourteen days. Thus, there is no basis for default against any Defendant. In accordance with the Case Management Order, summary judgment motions are due on or before June 29, 2012.

/s/Cynthia Reed Eddy
Cynthia Reed Eddy
United States Magistrate Judge

Keith Anderson
AS-3252
SCI Rockview
Box A
Bellefonte, PA 16823-0820